

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WENDY GAUTHIER,

Plaintiff

v.

SUNHEALTH SPECIALTY
SERVICES, INC. and SUNBRIDGE
HEALTHCARE CORPORATION,

Defendants

CIVIL ACTION NO.: 05cv40119-FDS

**PLAINTIFF'S LIMITED OPPOSITION TO DEFENDANTS' MOTION IN LIMINE TO
PRECLUDE TESTIMONY IN THE NATURE OF EXPERT OPINIONS BY LAY
WITNESSES**

NOW COMES the Plaintiff, Wendy Gauthier, and hereby provides her limited opposition regarding the Defendants' Motion In Limine To Preclude Testimony In The Nature Of Expert Opinions By Lay Witnesses.

Rule 701 of the Federal Rule of Evidence states:

If the witness is not testifying as an expert, the witness testimony in the form of opinions or inferences is limited to those opinions which are (a) rationally based on perceptions of the witness, and (b) are helpful to a clear understanding of the witness' testimony or the determination of fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702."

The Plaintiff does not anticipate that she or any other of the witnesses she intends to call to trial will attempt to offer scientific or technical medical conclusions regarding the Plaintiff's pregnancy. However, based upon Rule 701, the Plaintiff is able to provide her rationally based perceptions of her pregnancy and the physical symptoms of her related medical conditions. The Plaintiff disagrees with the Defendants' assertions that she, or any other witness, should be

precluded from offering any testimony that reflects that her pregnancy was medically different than a “normal” pregnancy. The Plaintiff is certainly competent to testify as to the physical symptoms she experienced in her pregnancy, regardless of whether such symptoms will be perceived by the jury to be normal or abnormal to typical pregnancy.

WHEREFORE, for the foregoing reasons, the Plaintiff respectfully requests that the Court allow the Plaintiff to testify as to her perceptions of her pregnancy-related medical conditions and symptoms.

Respectfully submitted,

The Plaintiff
WENDY GAUTHIER
By Her Attorney

/s/ Michael O. Shea
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Date: September 2, 2008

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Date: September 2, 2008

CERTIFICATE OF SERVICE

I, Michael O. Shea, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on September 2, 2008 and that there are no non-registered participants.

/s/ Michael O. Shea